



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/169149

PRELIMINARY RECITALS

Pursuant to a petition filed October 05, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 22, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued the petitioner's monthly FoodShare (FS) benefits effective October 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 4, 2015 the petitioner reported that T.A. left the home effective August 1, 2015. With the removal of T.A. from the household, the household size was reduced from eight people to seven people.

3. The petitioner's monthly gross income is \$3,903.98 consisting of \$3,183.34 from Supplemental Security Income (SSI), \$550 from caretaker supplement, and \$170.64 from child support.
4. The petitioner pays \$885.00 in monthly rent. She is responsible for her utilities including heat.
5. On September 8, 2015 the agency sent the petitioner a notice stating that effective October 1, 2015 her FS benefits would terminate because the household income was over the program limits.
6. On October 5, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 7 is \$226, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I reviewed the agency's calculations in this case, and the calculations are correct. The petitioner's monthly gross income is \$3,903.98. She received the standard deduction in the amount of \$226. She did not receive any additional deductions. She was not eligible for an excess shelter deduction because her rent and utilities did not exceed half of her adjusted gross income. There were not any allowable medical expenses reported to the agency. Finally, she did not receive an earned income deduction because her income is not earned income. The petitioner's gross income minus the standard deduction gives the petitioner a net income that exceeds the program limits for a household size of seven. Thus, the agency correctly discontinued the petitioner's FS benefits effective October 1, 2015.

The petitioner argues that she should receive FS because she received FS in the past with the same household size and income. Although it was outside the scope of this hearing, the agency went through previous months. The gross income and household sizes in those months varied, and were not the same as the petitioner argued. Given the petitioner's monthly gross income and her deductions, the agency properly terminated her FS benefits effective October 1, 2015. If the petitioner's income decreases or there is a change in household, then the petitioner may reapply for FS benefits.

The petitioner further argued that one of her children's SSI payments should not be included in the household's monthly gross income because she is no longer his payee. The child is a household member, and the FS regulations direct the agency to count all unearned income including SSI income. *FS Wisconsin Handbook*, §4.3.4.1 – 2. Thus, the agency properly included the SSI payments of all household members.

CONCLUSIONS OF LAW

The agency correctly discontinued the petitioner's monthly FoodShare (FS) benefits effective October 1, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 28th day of October, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 28, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability